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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/039,889	10/19/2001	Andy Rosa	ROSA 0104 PUS	8709

7590

06/21/2004

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EXAMINER

HWU, DAVIS D

ART UNIT

PAPER NUMBER

3752

DATE MAILED: 06/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/039,889

Applicant(s)

ROSA ET AL.

Examiner

Davis Hwu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 May 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 13-25 and 33-40 is/are allowed.
- 6) ☒ Claim(s) 1,3-8,26 and 27 is/are rejected.
- 7) ☒ Claim(s) 2,9-12 and 28-32 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Response to Amendment

1. Applicant's amendment and remarks of May 11, 2004 are acknowledged and entered.
2. Applicant's remarks have been considered but are moot in view of the new ground(s) of rejection.
3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 4, 5, 26, and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by Downey.

The patent to Downey shows a stationary fluid application system for a vehicle driven by an operator comprising a fluid source 122, a pump 132 in fluid communication with the fluid source, a spray unit 22 including a nozzle in fluid communication with the pump, a sensor 152 adapted to output a vehicle detection signal in response to vehicle movement under the control of the vehicle operator, and a controller in operative communication with the sensor and the pump, the controller adapted to receive the vehicle detection signal, delay a first time period during which time the spray unit is inactive and the vehicle is moving under operator control, and activate the pump for a

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second time period to deliver the fluid source by way of the spray unit to a detected vehicle as a function of the vehicle detection signal (Column 7, lines 38-60). Downey also shows a boom supporting a plurality of nozzles as recited in claim 4.

Claim Rejections - 35 USC § 103

5. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Downey in view of Scheiter, Jr. and Rendemonti.

The patent to Scheiter, Jr. teaches a fluid application system comprising rotary nozzles and Rendemonti teaches a fluid application system comprising a piston pump to supply a pre-determined quantity of fluid. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the device of Downey by providing rotary nozzles as taught by Scheiter, Jr. to increase the area covered by the nozzles and to use a piston-type pump as taught by Rendemonti to supply a pre-determined quantity of fluid.

6. Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Downey in view Inoue.

Inoue teaches a fluid application system for vehicles comprising a light-based sensor. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the device of Downey by replacing the sensor with a light-based sensor as taught by Inoue since Inoue teaches that the use of light-based sensors are known in the art and the device of Downey would function properly with such a modification.

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7. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Downey view of Larson et al.

Larson et al. teaches a fluid application system comprising photoelectric sensors PE-1 and PE-2 and an ultrasonic sensor US-5 to detect a vehicle. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the device of Downey by using ultrasonic sensors and photoelectric sensors as taught by Larson et al. since such modifications are known in the art and the device of Downey would function properly with such a modification. The placement of the sensor is an obvious matter of design choice since the sensor would carry out its function regardless of its location.

Allowable Subject Matter

8. Claims 2, 9-12 and 28-32 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. Claims 13-25 and 33-40 are allowed.


Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Davis Hwu whose telephone number is 703-305-1663. The examiner can normally be reached on M-F 7:30 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Y. Mar can be reached on (703)308-2087. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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11. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Davis Hwu